



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Johnny Sinclair, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, March 6, 2013

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

**Present:** Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris, Rev. Anthony Coleman, Jim King, Philip M. Goldstein and Annette Lewis (attending by phone)

***Also Present:***

*William F. Bruton, Jr. City Manager*

*Douglas R. Haynie City Attorney*

*Stephanie Guy, City Clerk*

### CALL TO ORDER:

*Mayor R. Steve Tumlin called the meeting to order at 7:03 p.m.*

### INVOCATION:

*Mayor Tumlin called upon Council member Grif Chalfant to give the invocation.*

**20130172**

**Dr. Oral Moses**

Dr. Oral Moses will sing the National Anthem.

**Present**

### PLEDGE OF ALLEGIANCE:

*Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.*

### PRESENTATIONS:

**PROCLAMATIONS:****20130182 Proclamation - Dr. Oral Moses**

Presentation of a Proclamation to Dr. Oral Moses, retired Professor of Voice and Music Literature and Director of the Gospel Choir at Kennesaw State University. Dr. Moses is a bass-baritone who has numerous successes in Oratoria and Opera performing major roles. Dr. Oral Moses has recorded several CDs of Art Songs and Spirituals by African-American composers.

**Presented**

**20130265 Proclamation - Lawton Ward**

Presentation of a proclamation to Lawton Ward, Student/Athlete at MHS being recognized as "Marietta's 2nd State Champ in wrestling ever."

**Presented**

**20130266 Proclamation - Zach Cole**

Presentation of a proclamation to Zach Cole, MHS Senior Star Student.

**Presented**

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20130253 Philip M. Goldstein of 31 Powers Ferry Manor, Ward 7.**

*Speaking in his private capacity and addressing Council from the lectern, Philip M. Goldstein spoke regarding the motion to deny the claim of PMG 358 Roswell Street, LLC. This matter was discussed during the February 25, 2013 Public Works Committee meeting and also appears on the Council agenda, item 20130235.*

*Mr. Goldstein presented documents regarding 'Ownership of a portion of property now or formerly known as 358 Roswell Street' dated March 6, 2013.*

**Present**

**UNSCHEDULED APPEARANCES:**

*Charles Livingston, who resides at 677 Kiowa Drive, spoke regarding his intention to run for Mayor in the upcoming general election.*

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\*      **20130249      Rescind Legistar 20130192**

Motion to rescind Legistar item 20130192, appeal request for the abatement of penalty for failure to pay property tax on time, as related to property located at 1970 Roswell Road.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

Absent for the vote: Philip M. Goldstein

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

*Mayor Pro tem, Andy Morris, called upon Council member Johnny Sinclair to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.*

*-under Ordinances: Agenda item 201, Z2013-10 CG Northchase, LLC 1090 Northchase Parkway remains on the consent agenda with an amendment to be rezoned from CRC (Community Retail Commercial) to CRC (Community Retail Commercial) with additional use (college or university).*

*-under Economic/Community Development: Agenda item 20130216 was added to the consent agenda and amended to read, "Approval of a Resolution reallocation of \$27,362.88 in unspent completed 2008 project funds from the CDBG Fairground Street Intersection Project to Marietta Parks and Recreation for Lake Park Improvements."*

*-under Judicial/Legislative: Agenda item 20130177 was added to the consent agenda to refer the matter back to the Judicial/Legislative Committee.*

*-under Parks, Recreation and Tourism: Agenda item 20130247 was added to the consent agenda with Council member Lewis voting against.*

*-under Public Works: Agenda item 20130235 remains on the consent agenda with an amendment to the disclosure by Council member Goldstein to state that the property at 358 Roswell Street, was purchased via Trustee's Deed.*

*City Attorney Doug Haynie opened the public hearing for those items on the consent agenda requiring a public hearing.*

*Carl Westmoreland, attorney for the applicant, wanted to clarify that approval of agenda item 20130167 was the revised ordinance for property at 1090 Northchase Parkway. Mr. Haynie confirmed that it was the revised ordinance.*

*Speaking in his private capacity and addressing Council from the lectern, Philip M. Goldstein wanted to clarify that the disclosure for agenda item 20130235 should read, "Philip M. Goldstein is the owner and Manager of PMG 358 Roswell Street, LLC. PMG 358 Roswell Street, LLC owns property at 358 Roswell Street, Marietta, Georgia 30060 that was purchased on December 30, 2011 from Emerson, LLC via Trustee's Deed. Part of the property purchased is the subject matter of Public Works Agenda item 20130235. Councilman Philip M. Goldstein will not participate in this particular matter in the capacity as a Marietta City Councilman."*

*The public hearing was closed.*

**A motion was made by Council member Coleman, seconded by Council member King, to approve the consent agenda as modified. The motion carried by the following vote:**

**Vote: 6 - 0 - 0** **Approved**

*Absent for the vote: Philip M. Goldstein*

*with the following exceptions:*

*Council member King voting against agenda item 20130197.*

*Council member Sinclair abstaining on agenda item 20130209.*

*Council member Lewis voting against agenda item 20130247.*

## MINUTES:

## 20130230 Regular Meeting - February 13, 2013

Review and approval of the February 13, 2013 regular meeting minutes.

*Motion to approve the February 13, 2013 meeting minutes, with an amendment on page 22 showing Council member Goldstein abstaining on agenda item 20130192 Penalty Abatement Request. The minutes should also note that agenda item 20130192 was Rescinded at the March 6, 2013 City Council meeting*

**A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 7 - 0 - 0** **Approved as Amended**

**MAYOR'S APPOINTMENTS:**

**CITY COUNCIL APPOINTMENTS:**

\* **20130113 Construction Board of Adjustment and Appeals Appointment**

Reappointment of Steve Arrants to the Construction Board of Adjustment and Appeals (Ward 2), for a five (5) year term expiring March 5, 2018.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

\* **20130114** **Marietta Redevelopment Corporation Board Appointments**

Reappointment of Floyd Northcutt, Brian Strack, Diane Lidz and Pete Bilson to the Marietta Redevelopment Corporation (MRC) Board of Directors for a two year term expiring on April 10, 2015.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

\* **20130244** **Planning Commission Appointment**

Appointment of Cheryl Richardson to the Planning Commission (Ward 1) for a term of three years, expiring March 6, 2016.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

\* **20130245** **Marietta Redevelopment Corporation Board Appointment**

Appointment of James G. Fausett to the Marietta Redevelopment Corporation (MRC) Board of Directors for a two year term expiring on April 10, 2015.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

\* **20130204** **Welcome Center Appointment**

Appointment of Philip M. Goldstein to the Marietta Welcome Center Board, expiring at the end of the Council term December 31, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

**ORDINANCES:**

- \*      **20130167**              **Z2013-10 CG Northchase, LLC 1090 Northchase Parkway**

**Ord 7654**

Z2013-10 [REZONING] CG NORTHCHASE, LLC requests rezoning for property located in Land Lot 07970, District 16, Parcel 0320, 2nd Section, Marietta, Cobb County, Georgia and being known as 1090 Northchase Parkway from CRC (Community Retail Commercial) to CRC (Community Retail Commercial) with additional use (college or university). Ward 1.

*Motion to approve the rezoning for property known as 1090 Northchase Parkway from CRC (Community Retail Commercial) to CRC (Community Retail Commercial) with additional use (college or university).*

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**                      **Approved as Amended**  
Absent for the vote: Philip M. Goldstein

**RESOLUTIONS:****CITY ATTORNEY'S REPORT:**

- \*      **20130267**              **Claim - Aislinn Rhodes**

Denial of the claim of Aislinn Rhodes.

**This Matter was Approved to Deny on the Consent Agenda.**

**Vote: 6 - 0 - 0**                      **Approved to Deny**  
Absent for the vote: Philip M. Goldstein

**CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson**

- \*      **20130190**              **FY 2014 Annual Plan**

Approval of a Resolution authorizing the acceptance of the Public Housing Authority (PHA) Fiscal Year 2014 Annual Plan.

\*      **20130216      CDBG completed Project funds**

Approval of a Resolution reallocation of \$27,362.88 in unspent completed 2008 project funds from the CDBG Fairground Street Intersection Project to Marietta Parks and Recreation for Lake Park Improvements.

*Approval of a Resolution reallocation of \$27,362.88 in unspent completed 2008 project funds from the CDBG Fairground Street Intersection Project to Marietta Parks and Recreation for Lake Park Improvements.*

**This Matter was Approved as Amended on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved as Amended**  
Absent for the vote: Philip M. Goldstein

**2. Finance/Investment: Annette Lewis, Chairperson**

\*      **20130197      GMA 2013 Annual Convention**

Motion approving travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) 2013 Annual Convention in Savannah, GA June 22 - 25, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**  
Absent for the vote: Philip M. Goldstein

**3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

**20121260      Kennesaw Avenue Design Guidelines**

Motion to approve the Design Guidelines for the Kennesaw Avenue Historic District.

*Mayor Tumlin opened the public hearing and called forward those wishing to speak.*

*Development Services Director Brian Binzer presented information regarding the Design Guidelines for the Kennesaw Avenue Historic District. Mr. Binzer also outlined the next steps in the approval process, which would include notifying the property owners in the defined area, allowing them to vote on the adopted guidelines and holding additional public hearings.*

*Dennis Payne, who resides at 327 Kennesaw Avenue, expressed concern regarding the design guidelines.*

*Discussion was held.*

A motion was made by Council member King, seconded by Council member Sinclair, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

\* 20130142

**Cobb County Board of Elections and Registration**

Motion approving a contract between the City of Marietta and the Cobb County Board of Elections and Registration in order to carry out the General Election to be conducted on November 5, 2013.

**This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 0

Approved

Absent for the vote: Philip M. Goldstein

\* 20130177

**Certified City of Ethics**

Approval of a "Certified City of Ethics" Resolution and authorization for staff to submit the resolution and the City of Marietta Code of Ethics Ordinance to the Georgia Municipal Association for application to their "Certified City of Ethics" program.

*Motion to refer this matter back to the Judicial/Legislative Committee for further discussion.*

**This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 0

Referred to the Judicial/Legislative Committee

Absent for the vote: Philip M. Goldstein

\* 20130198

**GMA Voting Delegates**

Motion appointing Grif Chalfant as the voting delegate and Anthony Coleman as the alternate voting delegate for the 2013 GMA Business Meeting being held during the GMA Annual Convention Monday, June 24, 2013.

**This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 0

Approved

Absent for the vote: Philip M. Goldstein



\*      **20130209                      Revised Detailed Plan for Walnut Grove**

Motion to approve the revised Detailed Plan for Walnut Grove, located in Land Lot 12290, District 16, 2nd Section, Marietta, Cobb County, Georgia, and specifically the attached revised tree plan (by Gaskins Engineering, dated February 27, 2013), which includes waiving the requirement for street trees on Lot 2 and 17 as shown on the drawing dated February 27, 2013 and signed by the applicant.

*Council member Sinclair disclosed that he represented Mr. Kirk as a realtor, but the relationship ended October 2012. Council member Sinclair will abstain on this matter.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                                      Approved**  
Absent for the vote: Philip M. Goldstein

**4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**

\*      **20130247                      2009 Parks Bond Funds**

Motion to pull \$650,451 of the Parks Bond dollars from (c) Development Parks and Existing Facilities and place in the Land Acquisition category with the words "Elizabeth Porter" earmark.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                                      Approved**  
Absent for the vote: Philip M. Goldstein

\*      **20130248                      2009 Parks Bond Fund Expenditure**

Motion to approve up to \$22,000 in the Parks Bond Land Acquisition category to be used for legal fees, environmental studies, etc., to complete the land acquisition of property at 545/586 Kenneth E. Marcus Way.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                                      Approved**  
Absent for the vote: Philip M. Goldstein

**5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson**

**6. Public Safety Committee: Anthony Coleman, Chairperson**

**7. Public Works Committee: Jim King, Chairperson**

**\* 20130124 Otis A. Brumby, Jr. Memorial Way**

Motion to approve “Otis A. Brumby, Jr. Memorial Way” by maintaining Fairground Street as the street name but to memorialize Fairground Street from South Marietta Parkway to South Cobb Drive, as “Otis A. Brumby, Jr. Memorial Way”.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

**20130214                      Speed Hump Policy**

Motion to approve the revised Speed Hump Policy dated March 6, 2013.

*Public Works Director Dan Conn presented information regarding the Speed Hump Policy and mentioned the changes that have been made.*

*Mr. Paul Toivonen, who resides at 894 Chesterfield Place, expressed concern regarding the percentage of voters needed for approval of the speed humps.*

*Discussion was held regarding the revised Speed Hump Policy.*

**A motion was made by Council member King, seconded by Council member Sinclair, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 6 – 1 – 0**                      **Approved as Amended**

Voting Against: Annette Lewis

\* **20130235** **358 Roswell Street**

Motion to deny the claim of PMG 358 Roswell Street, LLC to ownership of right-of-way previously deeded to the City of Marietta in Deed Book 14559, Page 3495 Cobb County, Georgia records and to further deny all claims and statements in an email from Philip M. Goldstein dated February 14, 2013.

*Philip M. Goldstein is the owner and Manager of PMG 358 Roswell Street, LLC. PMG 358 Roswell Street, LLC owns property at 358 Roswell Street, Marietta, Georgia 30060 that was purchased on December 30, 2011 from Emerson, LLC. Part of the property purchased is the subject matter of Public Works Agenda item 20130235. Councilman Philip M. Goldstein will not participate in this particular matter in the capacity as a Marietta City Councilman.*

*Motion to deny the claim of PMG 358 Roswell Street, LLC with an amendment to the disclosure, which should read, "Philip M. Goldstein is the owner and Manager of PMG 358 Roswell Street, LLC. PMG 358 Roswell Street, LLC owns property at*

*358 Roswell Street, Marietta, Georgia 30060 that was purchased on December 30, 2011 from Emerson, LLC via Trustee's Deed. Part of the property purchased is the subject matter of Public Works Agenda item 20130235. Councilman Philip M. Goldstein will not participate in this particular matter in the capacity as a Marietta City Councilman."*

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

**APPEARANCES:**

**OTHER BUSINESS:**

## 20130203 Penalty Abatement Request - Mr. Ghassan Ghraizi

Appeal request for the abatement of penalty for failure to pay property tax on time as related to property located at 1970 Roswell Road.

*City Attorney called forward and swore those wishing to speak regarding this matter.*

*Ghassan Ghraizi, representing GBC Services, LLC, presented information regarding the request for abatement of penalty for failure to pay property tax on time. Mr. Ghraizi referenced the letter from GBC Services, LLC to the City Manager's Office dated February 2, 2013.*

*Discussion was held regarding the tax bill and the address on file at the tax assessor's office for the property.*

*Finance Director Sam Lady also spoke regarding the request for abatement of penalty and submitted a summary of the actions to this point. The twelve page document, filed with the City Clerk, showed that the tax statement in question was mailed to the last known address on file for the company. A copy of the City Code related to penalties and Georgia Code related to revenue and taxation were also included.*

*In rebuttal, Mr. Ghraizi made an objection to members of the Marietta tax department being present during the hearing. Mr. Haynie stated that members of the tax department were present to present evidence regarding this matter.*

*Further discussion was held among Council members.*

*A motion was made to deny the appeal for the abatement of penalty for failure to pay property tax on time, as related to property located at 1970 Roswell Road.*

**The motion was made by Council member King, seconded by Council member Coleman, to Deny the request. The motion carried by the following vote:**

**Vote: 6 - 0 - 0                      Denied**

Absent for the vote: Annette Lewis

\*      **20130292**

**603 S. Marietta Parkway**

Motion authorizing the acceptance of the donation of the necessary easements at 603 S. Marietta Parkway from Gardanrob Holdings, LLC for the purpose of constructing the South Marietta Pkwy Sidewalk Project.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

Absent for the vote: Philip M. Goldstein

\*      **20130293**

**621 S. Marietta Parkway**

Motion authorizing the acceptance of the donation of the necessary right-of-way and easements at 621 S. Marietta Parkway from Buford-Clairmont Company, LTD for the purpose of constructing the South Marietta Pkwy Sidewalk Project.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

Absent for the vote: Philip M. Goldstein

\*      **20130294**

**332 Roselane Street and 363 Campbell Hill Street**

Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section.

332 Roselane Street in exchange for \$4,150.00 from Cherokee Street Associates, LLC, and is inclusive of site improvements.

363 Campbell Hill Street in exchange for \$6,900.00 from Raymond J. Worden, and is inclusive of site improvements.

Council Member Sinclair disclosed that he represented Raymond Worden as a realtor during the purchase of the property at 363 Campbell Hill Street.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

Absent for the vote: Philip M. Goldstein

\* **20130295** **777 S. Marietta Parkway, 779 S. Marietta Parkway, 785 S. Marietta Parkway and 811 S. Marietta Parkway**

Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of constructing the South Marietta Pkwy Sidewalk Project .

777 S. Marietta Parkway in exchange for \$2,330.00 from Cooks Pest Control, Inc.

779 S. Marietta Parkway in exchange for \$660.00 from Oscar Branyan & Cora M. Sauls.

785 S. Marietta Parkway in exchange for \$620.00 from South Loop Properties, LLC.

811 S. Marietta Parkway in exchange for \$3,900.00 from Howard Gantt.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

**\* 20130232 BLW Actions of the March 4, 2013**

Review and approval of the March 4, 2013 actions and minutes of the Marietta Board of Lights and Water.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0** **Approved**

Absent for the vote: Philip M. Goldstein

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**

*The meeting was adjourned at 8:25 p.m.*

**Date Approved: April 17, 2013**

### R. Steve Tumlin, Mayor Tumlin

**Attest:** \_\_\_\_\_  
**Stephanie Guy, City Clerk**